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SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-third session

SUMMARY RECORD OF THE 33rd MEETING (SECOND PART)*

Held at the Palais des Nations, Geneva,
on Wednesday, 28 August 1991, at 3 p.m.

Chairman: Mr. HELLER
later: Mr. JOINET

CONTENTS

The New International Economic Order and the promotion of human rights (continued)

The realization of economic, social and cultural rights (continued)

Contemporary forms of slavery

Review of further developments in fields with which the Sub-Commission has been concerned

* The summary record of the first part of the meeting appears as document E/CN.4/Sub.2/1991/SR.33.

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THE NEW INTERNATIONAL ECONOMIC ORDER AND THE PROMOTION OF HUMAN RIGHTS (agenda item 7) (continued)

THE REALIZATION OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS (agenda item 8) (continued) (E/CN.4/Sub.2/1991/17-19, 47)

1. Mr. van WALT (Pax Christi) said that he would like the Sub-Commission to give more attention to population transfers which involved violations of civil and political rights as well as economic, social and cultural rights. He regretted that the report by Mrs. Mbonu (E/CN.4/Sub.2/1991/47), dealing with various development problems in the context of population transfers, appeared to accept that practice. However, its legitimacy was challenged in the paper circulated by the International Federation for the Protection of the Rights of Ethnic, Religious, Linguistic and other Minorities; in the document it was stressed that often the aim of population transfers was to change the demographic structure in order to assimilate certain populations.

2. He gave a number of examples in that regard: the forced expulsion of Kurds by Turkey and Iraq, the settlement by Tanzania of people from the mainland in Zanzibar; Chinese practices in Tibet and Indonesian practices in East Timor; the transfer by the United States of the Gullah island populations in order to create residential areas, thereby threatening the ecology; the settlement of people from Papua New Guinea in Bougainville, which had led to acts of violence; the settlement of Sinhalese in Tamil areas in Sri Lanka, and so on.

3. Although the Sub-Commission's studies made for a heavy workload, the document submitted by the International Federation for the Protection of the Rights of Ethnic, Religious, Linguistic and other Minorities and relevant documents by other NGOs should be given due attention at the next session.

4. Mr. EYA-NCHAMA (International Movement for Fraternal Union among Races and Peoples) first of all thanked the authors of documents E/CN.4/Sub.2/1991/17, 18 and 47. He went on to stress that, unfortunately, the end of the cold war and of ideological conflicts did not mean the end of destitution, poverty and malnutrition. Popular participation was a decisive factor in overcoming those problems. It should be viewed both as a means and an end. The crisis confronting many countries today was due to the fact that political power, like economic power, was in the hands of too few people. Popular participation should provide a remedy to that situation; it should involve organizations of workers, women, students, and so on. The International Movement for Fraternal Union among Races and Peoples was against development projects which did not incorporate that dimension and was particularly anxious that the international financing agencies should support other projects.

5. Mr. Joinet took the Chair.

6. Mr. KAMAROTOS (International Federation for the Protection of Ethnic, Religious, Linguistic and other Minorities) enumerated regrettable examples of population transfers: the implantation of Javanese settlers in East Timor; the settlements carried out by Bangladesh in the Chittagong Hills, the transfer of Albanians from Kosovo; the expulsion of the Greek minority in

Albania; the Israeli settlements in the occupied territories; the expulsion by the Dominican Republic of Haitians and persons of Haitian decent; the implantation of Turks in the part of Cyprus occupied by their country; the destruction of Guatemalan villages and the transfer of their inhabitants to so-called model villages; the displacement of Tatars who, after being replaced by Ukrainians and Russians, wished to return to their land of origin and were putting up tent villages; the expulsion from Eritrea of non-Eritreans settled by the previous regime on the pretext of avoiding influencing the outcome of the forthcoming referendum, and so on.

7. Referring to resolution 1990/17, adopted at the previous session, he stressed that the transfer of populations often occurred without their consent and gave rise to problems of racial discrimination. Government involvement ranged from direct action to settlement incentives, and was motivated by strategic, military and political objectives. Those practices endangered the very survival of peoples and national, ethnic and religious groups. They gave rise to local conflicts which could in turn threaten world peace.

8. Turning to the report by Mrs. Mbonu (E/CN.4/Sub.2/1991/47), he pointed out that the document was based on too narrow a definition of population transfers; in future it would be desirable for the Sub-Commission to adopt a broader approach. With that in mind, the members of the Sub-Commission should study the analytical and comprehensive report by his own organization and regard it as a basis for future Sub-Commission action.

9. Mr. WAREHAM (International Association against Torture), after referring to the Santiago Declaration, reviewed the status of economic, social and cultural rights in a number of countries in America. In Chile, there was talk of an economic miracle, but the economic model applied differed little from what it had been under the Pinochet regime, and the results were often even more serious. In that country, 5 million out of 11 million persons lived below the poverty line. In agriculture, out of 600,000 seasonal workers, only 60,000 were organized in trade unions, compared with some 200,000 in 1973. The number of homeless had reached half a million. Social spending had declined since the Pinochet regime.

10. In Guatemala, according to statistics for 1990, 72.3 per cent of the population lived in extreme poverty, compared with 54.5 per cent in 1985. It was also a matter for regret that the IMF had advocated a racist measure for the control of the indigenous population.

11. In the United States, a high proportion of black children (over half) lived below the poverty line. It had been established that one black child in eight did not have enough to eat in that country; six million black children were suffering from nutritional deficiencies. Tuberculosis was spreading once again, notably in New York State, mainly among the minorities. Finally, he drew attention to the fact that after a representative of his organization in Honduras had been murdered, the brother of the victim had been forcibly drafted into the army; he called for an end to such measures.

12. Mr. van der WELD (Centre Europe-Tiers Monde) raised the question of "tax havens" where private fortunes from the third world were deposited: Panama, the Cayman Islands, Switzerland and Luxembourg, in particular. Capital transferred from the South to the North today accounted for $555 to 600 billion; that amount would make it possible to pay back the debt of the third world countries. Foreign accounts opened in such conditions constituted life insurance for corrupt élites. Tax havens applied a policy of banking secrecy. For instance, in Switzerland, the banks and lawyers of former President Marcos had been able to avail themselves of remedies which had held up the legal proceedings. There was also the BCCI affair in which many public authorities had been implicated.

13. Turning to specific solutions, he stressed that new legislation was needed in three areas: international legal assistance, which at present was operative for theft of a lower order but not in the case of economic offences; transparency of the major international banks, which could be achieved by regulations governing transfers; and preventive measures against economic offences.

14. The Sub-Commission should adopt a more pragmatic approach to that problem and give some thought to the elaboration of an international convention which would compel the countries of the third world as well as the international banks to face up to their responsibilities.

15. Mr. RAIANI (International Organization for the Elimination of All Forms of Racial Discrimination), speaking on behalf of nine non-governmental organizations, said that the policy of economic sanctions adopted by the Security Council against Iraq violated the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights. Its consequences were the destruction of Iraq's infrastructure and terrible privations inflicted on its 18 million inhabitants in the area of food, water, medical care, and so on. That situation had been brought out in the reports of the Inter Agency Mission led by Prince Sadruddin Aga Khan and the United Nations expert, Mr. Aatisari (S/22366), as well as in a study published by Harvard University which had revealed, inter alia, that 170,000 children had died in Iraq in 1991 due to lack of care or food, because of the conditions imposed on Iraq by a United Nations body - an unprecedented situation in the Organization's history.

16. He therefore called upon the members of the Sub-Commission to shoulder their responsibilities in view of the situation just described by him and which was brought out in the studies he had cited. He would like the Chairman of the Sub-Commission to make representations to the Secretary-General for the latter to request the Security Council to take the requisite measures to ease the suffering of the Iraqi population.

17. Mr. PREJEAN (Four Directions Council) read out a statement by Roberta Blackgoat, of Big Mountain, Arizona, United States of America, drawing attention to the situation created by the transfer of the Hopi of Arizona, who were being compelled to leave their ancestral lands, the main feature was four sacred mountains. That kind of transfer had already caused serious problems

by endangering the traditional lifestyle and giving rise to problems of drug addiction and alcoholism. The Bureau of Indian Affairs was currently threatening to demolish dwellings and divert the water supply. The author referred to Sub-Commission resolution 1990/34, which had requested that a special rapporteur should be appointed to make contact with the tribal councils concerning relocation policies.

18. Mrs. GRAF (International League for the Rights and Liberation of Peoples) drew attention to the situation created in the Philippines by the exigencies of that country's debt repayment. The Philippines owed some $30 billion to financing institutions such as the IMF and the World Bank, as well as to commercial banks in the countries of the North. The country's economy was largely dependant on transnational corporations, mainly United States and Japanese corporations. The present Government of President Aquino wished to assume the country's debt burden in accordance with the rules, in order to be a creditworthy debtor and thus to obtain fresh loans. However, that meant that more than 40 per cent of the national budget had to be earmarked for debt repayment, i.e. some 110 billion pesos or US$ 4 billion. Moreover, only 26 per cent of that amount was used to repay the principal: 74 per cent was used for interest payments.

19. The ensuing social situation was all the more serious as the country had recently been hit by a variety of disasters: eruptions by the Pinatubo volcano, typhoons, floods, drought, and so on. Today, unemployment and underemployment affected 40 per cent of the active population in the Philippines; 70 to 80 per cent of the population lived below the poverty line. In Metro-Manila alone, there were 76,000 children living in the streets. It was easy to understand that debt-servicing led to serious shortcomings in the social services; consequently, many children died of diseases which could be easily prevented or cured. The hundreds of thousands of Filipino migrant workers abroad sent home amounts totalling approximately US$ 1 billion a year: however, those workers were not protected by the Government, which was anxious not to antagonize host countries.

20. It had been calculated that from the time when the dictator Marcos acceded to power in 1965 to the time when he was deposed in February 1986, the debt of the Philippines rose from US$ 600,000 to $26.5 billion. Mr. Marcos had stolen $10 to $12 billion which he had deposited mainly in Swiss banks under assumed names. Unfortunately, since his departure, the country's debt had risen to some $30 billion.

21. Today an armed revolution was under way in the Philippines, led by the National Democratic Front. The armed struggle was accompanied by a mass movement which called for structural changes. The Government reacted by total war which involved many human rights violations documented in the reports of Filipino organizations for the defence of human rights and internationally well known organizations such as the International Commission of Jurists. She concluded by stressing that the case of the Philippines, like other indebted countries of the South, reflected the consequences of the unjust economic relations that today affected the countries of the South, and called for the introduction of a new international economic and political order.

22. Mr. DIENG (International Commission of Jurists) said that his organization had long been concerned with the serious economic situation of the majority of countries of the South, where development was diverted from its goals by Governments that were also opposed to the primacy of the law. It was not enough to combat the poverty of those countries; it was necessary to change the systems that engendered it. The condition for such change was democracy in action.

23. The fraudulent enrichment of State officials and the transfer by them of assets to Western banks was a particularly shocking aspect of the serious situation in the countries of the South. The Swiss management of development cooperation had announced that the former President of Mali had transferred some $2 billion to foreign banks, and half of that amount to Switzerland. One could imagine the extent to which that had inhibited the development of a country where there was great poverty. In the Philippines, at least $10 billion had thus been transferred by the former dictator, at a time when the country had the lowest nutritional standard in Asia, with the exception of Cambodia which was at war. Today, 40 to 50 per cent of export earnings were being used to repay the country's debt.

24. Foreign banks also bore a heavy responsibility in that situation; at the present time, no action could be taken against them and, indeed, they were being recompensed for the plunder in which they participated. The international community must react rapidly, since what was at issue was not simply a moral question but a question of survival. The International Commission of Jurists urged the Sub-Commission to adopt draft resolution E/CN.4/1991/L.23 on the fraudulent enrichment of top State officials prejudicial to the public interest.

25. Mr. EYA-NCHAMA (International Movement for Fraternal Union among Races and Peoples) stressed, in the context of the establishment of the new international economic order, the importance of the participation of women. The issue differed according to the country. For instance, in Western Africa, women played an important role in trade, particularly textiles. However, in many places there was discrimination, particularly against married women, who were required to fulfil the role both of mother and of employee. They were refused jobs or, if they worked, they found it difficult to obtain maternity leave. It was vital that the Sub-Commission should give sufficient attention to the question of the participation of women. From that viewpoint, if the dates of the sessions of the Commission on the Status of Women were brought closer to those of the session of the Sub-Commission, it would make it easier for women's rights activists to concentrate their efforts.

26. Mr. TURK, Special Rapporteur, welcomed the fact that his second progress report on the realization of economic, social and cultural rights (E/CN.4/Sub.2/1991/17) had given rise to a stimulating and wide-ranging debate. He regretted, however, that that report had not been distributed in all the working languages. Turning to the comments made by members of the Sub-Commission, he said that he agreed with Mr. Guissé that the Sub-Commission should give more attention to economic, social and cultural rights, by having a debate on them during the first half of its session in the following year; that would make for a more exhaustive study of the issues.

27. He agreed with Mr. Saboia that the indicators which he had discussed in his progress report should not be obligatory, but ought to be considered as evolutionary. Mrs. Warzazi's remarks about certain changes in the United Nations system were helpful; they were an encouragement to him in his work. They would also be helpful for the projected seminar on indicators. He would also take account of Mrs. Ksentini's remarks about IMF and World Bank policies in relation to the indicators. The question of human rights criteria in IMF and World Bank decisions, as well as political and economic criteria, was particularly relevant.

28. Moreover, Mr. Flinterman's desire to extend the debate on social and economic rights was justified. Mrs. Mbonu had laid stress on the impact of debt on the developing countries; that aspect had already been studied in his progress reports and would be taken specifically in his final report. Mr. Treat had spoken about the durability of development and demographic growth; those were aspects important for an understanding of economic and social rights. The way in which human rights standards should influence demographic planning was also important. Mr. Alfonso Martinez had also mentioned the foreign debt, when referring to a relevant Commission on Human Rights resolution. Mr. Al-Khasawneh had drawn attention to the usefulness of a conceptual framework in order to define social justice; in that regard, he thought it was difficult to refer to a single philosophical system particularly, as Mr. Al-Khasawneh had emphasized, one could see in the present era two different humanities coming into being. He acknowledged that one should not concentrate solely on detail but instead map out fundamental concepts.

29. Mrs. DAES congratulated Mr. Türk on his second progress report which provided a sound basis for his forthcoming final report. The information contained in paragraphs 124 to 140 of the document concerning the right to work, to housing, to development, etc., was particularly significant. She also found the references to the relevant provisions of the Universal Declaration of Human Rights and the two International Covenants contained in the progress report appropriate.

30. She also greatly appreciated Mrs. Mbonu's working paper on population transfers. A draft resolution on that topic was currently under preparation. From that viewpoint, she hoped that the Sub-Commission would, in the future, give serious consideration to the paper submitted by the International Federation for the Protection of the Rights of Ethnic, Religious, Linguistic and other Minorities. The problem of the protection of the rights of those minorities was particularly acute in the territories occupied by Israel, where the implantation of colonies was in the process of destroying the cultural and ethnic basis of the territories. Even the rights of the settlers were violated because they were not in all cases settled of their own free will.

31. Mrs. MBONU thanked those members of the Sub-Commission who had expressed an interest in her working paper (E/CN.4/Sub.2/1991/47). Mr. Flinterman's comments were in line with her own concerns and which she had already stated in her oral introduction. Like Mrs. Daes, she thought that population transfers also infringed the rights of the settlers. The concern expressed by

Mrs. Palley was already reflected in paragraph 10 of the working paper. She would also give serious attention to the comments by Mr. Guissé, Mrs. Warzazi, Mr. Despouy and Mr. Treat. She assured all those members of the Sub-Commission who had commented on her working paper that she would take those comments fully into consideration.

32. Mr. DEMIRALP (Turkey) speaking in exercise of the right of reply, stated that the allegations made by the International Federation Terre des Hommes concerning his country were inventions. The development project in Anatolia to which that organization had referred was already described in document E/CN.4/Sub.2/1991/54.

33. Moreover, there was no such thing as the movement of refugees alleged by the representative of Pax Christi to have been caused by Turkey. The representative of Pax Christi did not appear to be aware of the current socio-economic dynamics of Turkish society, the main feature of which was a sizable drift to the towns. The "transfer of populations from the strategic North" of which he had spoken was not consistent with the facts. His delegation was willing to provide accurate information on the issues which the representative of Pax Christi had raised.

CONTEMPORARY FORMS OF SLAVERY (agenda item 16) (E/CN.4/Sub.2/1991/41)

34. Mrs. KSENTINI, Chairman-Rapporteur of the Working Group on Contemporary Forms of Slavery, introduced the report of the Working Group on its sixteenth session held from 19 July to 2 August 1991 (E/CN.4/Sub.2/1991/41). Its members had been Mrs. Palley and Mr. Diaconu, Mr. Sadi and Mr. Suescún Monroy. She thanked her colleagues on the Working Group and the Governments and NGOs who had shown a sustained interest in the Group's activities.

35. The Group had been concerned at the fact that despite the progress made, various forms of slavery still existed all over the world. It called in particular for effective action to achieve the total elimination of apartheid, and the eradication by the end of the century of other forms of slavery such as the sale of children, prostitution, the exploitation of child labour, traffic in persons and the use of children in armed conflicts or in drug trafficking and organized crime.

36. The prevention of the traffic in persons and the exploitation of the prostitution of others had been the main topic at the Working Group's sixteenth session. After examining the topic, the Group had drawn up a programme of action which was submitted to the Sub-Commission for adoption and transmittal to the Commission. A draft resolution was annexed, in which the Sub-Commission would request the Commission to communicate the programme of action to States and organizations concerned for their comments.

37. In the course of the debate, participants had stressed the need for a total ban on prostitution, whereas others had argued that its legalization would make it possible to combat more effectively the exploitation to which prostitution gave rise. Those positions were reflected in the report of the Working Group. In its recommendations, the Group had expressed its conviction

that the traffic in persons and prostitution were incompatible with human dignity and it had deemed it necessary to implement international standards and to strengthen the mechanisms provided by the 1949 Convention on the subject.

38. With regard to the sale of children, child prostitution and child pornography, the Group had taken cognizance of serious allegations and it had formulated recommendations (paras. 138 to 148) that the Secretary-General should request the States and organizations concerned, including INTERPOL, to investigate those allegations and report to the Working Group at its next session. The Working Group had also reformulated the programme of action for the prevention of the sale of children, child prostitution and child pornography (Annex I).

39. It should be recalled that the question of child labour had been the main topic at the Working Group's fifteenth session. The programme of action then formulated by the Group had been transmitted to the Commission and to the States and organizations concerned for their comments. The Secretary-General had been requested to submit those replies for the seventeenth session.

40. The Working Group had taken cognisance of replies by Governments in respect of debt bondage, which were reflected in its report. It had reiterated the recommendations which it had made at its fifteenth session (E/CN.4/Sub.2/1990/44, paras. 117 to 121).

41. With regard to apartheid, the Working Group had taken the view that more attention should be given to the effects of apartheid on the most vulnerable groups, particularly women and children.

42. The Working Group had considered the phenomenon of child soldiers and had decided to continue consideration of the question at its next session on the basis of an updated report by the Secretary-General.

43. The Group had also studied ways and means of strengthening the implementation of the slavery conventions, which did not provide for any machinery for monitoring or any obligation to submit reports. It deplored the fact that few Governments had replied on the subject, and had requested the Secretary-General to invite States to submit reports to the Group. The Group had also considered the question of reservations by States parties to the Convention on the Elimination of All Forms of Discrimination against Women. Mrs. Palley, a member of the Group, had stated a position that was reflected in paragraphs 51 to 56 of the report (E/CN.4/Sub.2/1991/41). The Group had been concerned by the fact that some reservations might not be compatable with the object of the Convention, and it therefore requested the Sub-Commission to transmit to the Commission a proposal inviting the Economic and Social Council to seek an advisory opinion from the International Court of Justice (annex I, draft resolution III).

44. The Working Group had studied ways and means of strengthening its methods of work. It had taken note with appreciation of Economic and Social Council resolution 1991/34 relating to the creation of the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery. The Group also again requested that a staff member of the Secretariat should be assigned on a full-time basis

to service its activities and that its sessions should be extended from five to eight working days during the month of April or May in order to facilitate the attendance of government observers and NGOs.

45. Mrs. PALLEY, after congratulating Mrs. Ksentini, said that she wished to draw attention to the important contribution made by Mr. Diaconu to the Working Group's report. Without him, there would not have been a draft programme of action for the prevention of traffic in persons and the exploitation of the prostitution of others. She welcomed the very satisfactory cooperation that existed between the Working Group and the Committee on the Elimination of Discrimination against Women, as well as with the ILO. The ILO had been investigating the exploitation of children, particularly in South East Asia and Latin America since 1990. In that regard, she quoted the record of the seventy-eighth International Labour Conference in 1991 concerning the Forced Labour Convention. The report indicated that throughout the world several million children aged between 5 and 14 were compelled to carry out forced labour in agriculture, that approximately 1 million children worked in brickworks, quarries and the building industries, that hundreds of thousands were employed in carpet weaving, making matches, cutting and polishing diamonds, etc. The exploiters had no fear of being punished, in view of the weakness of the Convention's monitoring mechanism. The record went on to say that children were bought and sold for work in private houses, restaurants, factories and brothels.

46. It would be desirable for the Sub-Commission and the ILO to work together in order to bring the forced labour of children to an end. What was even worse was the kidnapping and sale of children in certain Latin American countries to provide organs for transplantation. The Hong Kong Medical Association had also reported the sale of organs of persons executed in countries where execution was legal. Unfortunately, the WHO had not yet recommended international machinery to prevent the international traffic in human organs. The Sub-Commission should begin consultations with WHO to ensure that, if there were international transfers of organs they were carried out under the auspices of an agency of recognized competence and morality.

47. She also requested Mr. Joinet and Mr. Türk to study the question of pornography from the viewpoint of the fundamental right to respect for human dignity. Violence, particularly on television, was also harmful: a psychologist had reported that in the West the average child, between the age of 5 and 15, saw 18,000 murders on television. The Special Rapporteurs should consider the question of media responsibility and the adoption of codes of conduct for programmes and publicity.

48. She also thought that an advisory opinion was needed on the reservations to the Convention on the Elimination of All Forms of Discrimination against Women. It was clear that the Sub-Commission was increasingly concerned with forms of discrimination against half of the human race. It would be desirable for the Sub-Commission to cooperate with the Committee on the Elimination of Discrimination against Women. It was true that the Commission on the Status of Women dealt with those questions; however, the Sub-Commission should reassert its competence in respect of the protection of women.

49. The meeting was suspended at 8.25 p.m. and resumed at 9.15 p.m.

50. Mr. van BOVEN, after thanking the Working Group on Contemporary Forms of Slavery for its report (E/CN.4/Sub.2/1991/41) and Mrs. Ksentini for her introduction, regretted that the Commission on Human Rights Special Rapporteur on questions relating to the sale of children, child prostitution and child pornography had not been able to take part in the Working Group's session. It was to be hoped that in the future cooperation and even a close partnership would be possible.

51. Turning to an article in the Virginia Journal of International Law on the reservations to the human rights conventions, he stressed the special nature of those instruments. They were not merely reciprocal in character: their object was to promote and protect the rights of peoples. Reservations could affect the integrity of those instruments. States should therefore review their reservations, since accession to an instrument was always a dynamic process. The bodies responsible for monitoring the implementation of the instruments should draw the attention of States to that question. The Committee on the Elimination of Discrimination against Women in particular had an important role to play. The Sub-Commission should consult the Committee, and until it had done so, refrain from taking the initiative of requesting an advisory opinion.

52. Mrs. Ksentini had been right to ask for a staff member to be assigned on a full time basis to help the Working Group. The staff member could ensure continuity between sessions and coordination among the Working Group, the Special Rapporteur of the Commission, the Committee on the Rights of the Child, the Committee on the Elimination of Discrimination against Women, the Commission on the Status of Women, the appropriate specialized agencies, inter alia, the ILO and WHO, and non-governmental organizations.

53. Mrs. DAES expressed her appreciation of the report of the Working Group on Contemporary Forms of Slavery on its sixteenth session and of the first rate introduction by Mrs. Ksentini. She also thanked the other members of the Group and paid a special tribute to the NGOs, particularly the International Abolionist Federation and Defence for Children International for the useful information they had provided and on which the report was partly based.

54. The issues dealt with in chapter V of the document, in paragraphs 57 to 96, were particularly important, namely, the sale of children, slavery and the slave trade, child labour and debt bondage. The report stated that at present there were 20,000 child soldiers and that many were used as spies. Another tragedy which, however, was not mentioned in the report, was that of children in prison. The practice was particularly common in a country very well known for its human rights violations, which she would not identify. The Working Group should study that question, and draw it to the attention, inter alia, of the Commission on Human Rights Special Rapporteur.

55. The chapter on follow-up of recommendations of previous sessions was especially useful. She supported the recommendations in chapter VII. She agreed with Mr. van Boven about the assistance which the Working Group should receive. Finally she asked the Group to give attention to the treatment of children belonging to indigenous populations.

56. Mr. TREAT said that he also found the report of the Working Group and Mrs. Ksentini's introduction excellent. In the interests of brevity, he would comment on one aspect only, that of organs transplants, mentioned in paragraphs 138 to 141. Thus far, there was no hard evidence that children had been kidnapped for organ transplants, but that horrifying rumour persisted and an investigation would be warranted; it was to be hoped that by the next session such an investigation would yield some answers. He referred, in that regard, to the edition of 24 December 1990 of the magazine New Republic, in which the Director of the Office of Family Affairs in Mexico had stated that no case had been documented. He recalled that, in accordance with the law of the United States of America, the origin of all transplanted organs was registered in a data bank based in Richmond, Virginia. The purpose of the registration was to ascertain whether organs were in a satisfactory condition since they were usable only for a few hours, but it also enabled their origin to be recorded.

57. Further, in the United States, the 1984 national law on organ transplants prohibited trafficking in organs. He also pointed out that, at the request of the European Parliament, the Commission of the European Communities had concluded after an investigation that there had not been a single case in Europe of an organ transplanted from a Latin American child. In 1988, the United States Under-Secretary-General for Human Rights and Humanitarian Affairs had also stated that no such case had occurred in his country. It was therefore regrettable that the affair had been catapulted by the world press; one must now hope that the Working Group's next report would refute the rumour totally.

58. Mr. ILKAHANAF congratulated the Working Group on its report. He was particularly concerned at the question of child soldiers, mentioned in paragraph 94. Such a practice was unacceptable, not only when the children were forcibly enlisted but also when they were volunteers, because they did not realize the consequences of war. He deplored the fact that, in his own country, a great many children had died in the fighting which had led to the downfall of Mr. Siad Barre.

59. Mr. EIDE also congratulated Mrs. Ksentini and the members of the Working Group. Like Mrs. Palley, he wished to emphasize Mr. Diaconu's contribution. He also thanked the non-governmental organizations. He recalled that a triennial thematic programme was ending that year, with the consideration of the question of the exploitation of prostitution. Next year, the Working Group could undertake a retrospective review of all the issues of concern to it; it had already addressed the main part of those issues.

60. With regard to prostitution, one should not condemn prostitutes who were in effect the victims of prostitution; they were women who were impelled by poverty, a difficult childhood or the aftermath of incest. One should rather consider their exploitation, first by their clients and by those who earned money in that way. Unfortunately, prostitutes were the ones who fell foul of the law and of police repression.

61. It would be helpful if the Commission Special Rapporteur dealing with those issues, Mr. Muntarbhorn, whose mandate had been adopted on the basis of a recommendation by the Working Group, could take part in its sessions.

62. Further, a number of recent conflicts had drawn attention to the role of child soldiers, so that it was justified to continue to give the utmost attention to the question.

63. He would also like further cooperation between the Working Group and the competent specialized agencies, such as UNICEF, UNESCO and INTERPOL.

64. He hoped that Mrs. Ksentini would be able to continue to preside over the Working Group and that its members would remain in their posts, because some degree of continuity was needed for the consideration of issues and the contacts with the bodies capable of implementing the measures advocated by the Group.

65. He was disappointed by the role played by the media with regard to the question of fraudulent transplantations of organs. There might have been a small number of cases, but competent doctors had confirmed to him that transplants were technically difficult. Sophisticated hospitals would be needed as well as cynical doctors ready to do anything for money. The WHO was already studying the question; it was the organization best equipped to do so. Generally speaking, the issue appeared to be a marginal one in comparison with others such as child labour, child prostitution, and so on.

66. Mrs. WARZAZI regretted that the Sub-Commission was unable to give serious consideration to the report of the Working Group on Contemporary Forms of Slavery, since it addressed very serious problems of human rights violations as acute as the violations dealt with under agenda item 6 but which, unfortunately, were neglected because the victims were women and children. After congratulating Mrs. Ksentini and the members of the Group, she noted that a conclusion which had been emerging over the years was that children were increasingly victims of all forms of exploitation. In order to overcome that situation, the Working Group had rightly emphasized the importance of family education and contacts with the child. The dislocation of the family was a major reason, together with poverty. More particularly, the women's liberation advocated since the 1960s by Western feminist organizations had affected the texture of the family. Today, feminists were realizing that children were not and should not be an obstacle to the emancipation of women.

67. The seriousness of child exploitation would warrant the Commission on Human Rights appointing a special rapporteur on situations affecting children, namely, forced labour, exploitation, rape, sexual tourism, enlistment, drugs, organized theft, summary executions, removal of organs, etc.

68. After the adoption of the Declaration on Social and Legal Principles relating to the Protection and Welfare of Children and that of the Convention on the Rights of the Child, a way must be found of bringing the terrible things experienced by children, usually from disadvantaged backgrounds, to the attention of the authorities.

69. She shared Mrs. Palley's concerns about the problems affecting women, but recalled that she had herself taken part in the drafting of the Convention on the Elimination of All Forms of Discrimination against Women, and had proposed amendments that had been rejected due to what she would describe as extremist influences. She had had misgivings at the time that, without those

amendments, many countries, particularly Muslim countries, would hesitate to ratify the Convention; that was what had happened. Some years ago a seminar on accession to the Convention had been held in Morocco, attended by ulema and women from a variety of backgrounds. Some women had then called for accession without reservations, whereas others, more realistically, had accepted the principle of reservations. It was a fact that few Muslim countries had acceded to the Convention, and those who had done so had entered reservations. For the moment, Morocco had not acceded. She hoped that it would do so even with reservations, since that would have the advantage of securing at least a partial, and perhaps significant, implementation of the Convention. If Morocco and other countries in the same situation did not accede, it would be the women of those countries who would suffer as a result. In the present situation, one needed to take account of the diversity of cultures in the world and look for realistic results.

70. Mrs. FETTER (Friends World Committee for Consultation (Quakers)) said that she was seriously concerned about the recruitment of children into the armed forces. Her organization had submitted information to the Working Group on Contemporary Forms of Slavery since 1985 on child soldiers and in the previous year, in its resolution 1990/30, the Sub-Commission had welcomed the Working Group's decision to include the question of child soldiers as a separate agenda item.

71. In many parts of the world, children under 18 years of age were fighting alongside adult soldiers. According to the United Nations, as many as 200,000 child soldiers were participating in armed conflicts. Some had joined up voluntarily out of idealism or in order to have food, clothing and shelter, but many had been forcibly recruited. A large number of children had been killed or maimed, or suffered from psychological trauma. Children had even been used for military espionage.

72. The use of children in war was a phenomenon that was not by any means new, but it was not until the twentieth century that international law had regulated the use of children in armed conflicts. The Geneva Conventions and their Protocols permitted recruitment into the armed forces and participation in hostilities from the age of 15 years. Similar standards had been incorporated into the United Nations Convention on the Rights of the Child.

73. The United Nations needed to take a firmer stand against Governments and opposition movements which recruited children below the age of 15, and it should condemn forced conscription. Further, the international community had an obligation to protect minors between 15 and 18 and to ensure, inter alia, that they received a fair wage, food, shelter and health care.

74. Finally, the Friends World Committee for Consultation (Quakers) requested the Sub-Commission on Prevention of Discrimination and Protection of Minorities to support the decision of the Working Group on Contemporary Forms of Slavery to recommend to the Commission on Human Rights that the Special Rapporteur on the situation of children, Mr. Muntarbhorn, should examine the exploitation of child soldiers; and to request the United Nations Secretary-General to submit an updated report on children in situations of armed conflict to the Sub-Commission at its forty-third session.

75. Miss LEWIS (Anti-Slavery International) endorsed the conclusions of the report and the recommendations concerning the assistance by staff from the Centre for Human Rights and the follow-up activities which had been made by Mr. van Boven, Mr. Eide and Mrs. Daes. She also supported the proposal concerning continuity in respect of the post of Chairman.

76. Mr. FLUSS (World Health Organization), drawing attention to the information given in paragraph 62 of the report of the Working Group on Contemporary Forms of Slavery (E/CN.4/Sub.2/1991/41) on the removal of human organs for the purposes of transplantation, assured participants that WHO would work closely with the Centre for Human Rights to follow up the suggestions and comments which they had made.

77. The World Health Organization worked closely with the Council of Europe which was currently engaged in drafting an international convention on bio-ethics. Needless to say, WHO would continue to cooperate with the Special Rapporteur on the situation of children, Mr. Muntarbhorn.

78. Mr. BALOCH (Observer for Pakistan) said that the different forms of forced labour, child labour and abuses of innocent children were a matter of serious concern. The persistence of those social ills was in some measure due to the poverty which appeared to have become the lot of the developing countries in an unjust world economic order. Nevertheless, it was incumbent upon everyone, whether as individuals or government representatives, to do their utmost to eradicate those abhorrent practices.

79. The question of bonded labour and child labour in Pakistan had been raised in the Working Group on Contemporary Forms of Slavery by Anti-Slavery International, which had recalled that the Government of Pakistan had not kept the promise made the previous year that a law would abolish forced labour. The Government of Pakistan was fully cognizant of the problem and attached particular importance to the welfare and protection of the rights of social groups such as women, children, minorities and workers.

80. The Government of Pakistan had not been able to keep its promise to abolish forced labour in view of the change of Government that had occurred in Pakistan. The new democratically elected Government had studied the problem and had assured the people of Pakistan of its commitment to abolish bonded labour in all its forms and manifestations. Under a new law, which would soon be enacted, all bonded labour contracts or agreements and all debt bondage would be null and void. Any violation of that law would be punished by a maximum fine of PRs 50,000 and a maximum term of imprisonment of five years.

81. The present Government had already enacted a law, the 1991 Employment of Children Act, to ensure that no child under 14 years of age would be employed in any factory or mine or hazardous employment. Offenders incurred a term of imprisonment from three months to one year or a fine of PRs 10,000 to PRs 20,000. They might be liable to both penalties. Any repetition of the offence was punishable by up to two years' imprisonment.

82. Mrs. KSENTINI said that Mrs. Palley's comments had rounded off her report in a useful way by drawing attention to the disquieting character of the very serious allegations concerning, inter alia, the situation of children. The

Working Group on Contemporary Forms of Slavery had found it necessary to concern itself with children since it had noted that they were subjected to most of the contemporary forms of slavery.

83. Like Mr. van Boven, whom she particularly thanked for his contribution, she considered that the Special Rapporteur should work closely with the Commission on Human Rights. As Mr. van Boven had stressed, the Working Group was currently endeavouring to coordinate its activities with those of the various treaty bodies and it would be helpful if the Secretariat could make available a staff member who would be responsible for carrying out that task.

84. Turning to the comment by Mrs. Daes to the effect that the treatment of children in prisons had been omitted from the report, she asked whether the treatment of children in prisons could be considered to be a contemporary form of slavery. If the answer was in the affirmative, the question would come within the Group's mandate. The Working Group had not been officially seized of the question, but if the Sub-Commission considered that it was within its competence, the Working Group would follow up any appropriate recommendation. In that regard, she wished to correct an error that had found its way into the report of the Working Group: in the paragraph dealing with child soldiers, the figure should be 200,000 and not 20,000.

85. Since Mr. Treat had raised the problem of the sale of children and organ transplants, she agreed with his view that the Working Group was not in possession of reliable information. However, it was duty bound to study the allegations of which it was seized. The question of child soldiers, raised the previous year, had been included as a separate item on the Working Group's agenda and the Special Rapporteur, Mr. Muntarbhorn, had been entrusted with studying that topic.

86. Mr. Eide, whose helpful contribution to the work of the Working Group she noted, had commented that it was preferable to condemn the exploitation of prostitutes rather than prostitutes themselves; she said that the members of the Working Group were in full agreement with his viewpoint and referred him to the programme of action which had been drafted in that spirit. She also thanked Mr. Eide for proposing that she should remain as Chairman of the Working Group, but reminded him that the post of Chairman was subject to the principle of geographical rotation, and that it would be for the Working Group to take a decision on that question.

87. Like Mrs. Warzazi, she deplored the fact that the Sub-Commission only had a limited interest in the report of the Working Group, and stated that the Working Group was endeavouring to correct that situation.

88. With regard to another comment by Mrs. Warzazi, she explained that the Working Group was showing an increasing interest in the phenomena concerning children and that its recommendations dealt, inter alia, with disappearances, the traffic, sale and prostitution of children, the removal of organs from children and the participation of children in armed conflicts.

89. Finally, she thanked the Friends World Committee for Consultation (Quakers) for its active participation in the work of the Working Group, Anti-Slavery International for its support, the representative of WHO for his contribution and the observer for Pakistan for the explanations he had given.

90. Mr. ALFONSO MARTINEZ regretted that there had not been time to conclude the consideration of the very detailed report of the Working Group on Contemporary Forms of Slavery and deplored the fact that a document which deserved to be considered on a priority basis should be presented at the end of the session and at so late an hour.

91. Mrs. DAES, taking up Mrs. Ksentini's comments concerning the treatment of children in prison, said that she had no doubt that the exploitation of children in detention by State authorities and services, particularly military or tyrannical Governments, constituted a contemporary form of slavery. Further, two years earlier, the Sub-Commission had received reliable information about the treatment of children in the prisons of a particular country. Later on, it had also received a confidential communication concerning the same country and the same cases.

92. Mrs. KSENTINI said that it was for the Sub-Commission to seize the Working Group directly of the question of the detention of children and the corresponding allegations. With regard to confidential information, she did not think that the Working Group was empowered to consider in public communications received under Economic and Social Council resolution 1503 (LXVIII).

93. Mr. GUISSE regretted that he was unable to comment on the report of the Working Group, not having received it in time. However, he wished to point out that there was a Working Group on Detention which studied the situation of all persons subjected to any form of detention, and he recommended that duplication be avoided.

94. Mr. MAXIM pointed out that in Romania the phenomenon of child soldiers was a tradition which dated back to the fourteenth century, when the army had assumed responsibility for orphans and destitute children. Although they lived in barracks with adult soldiers, those children attended school in the ordinary way and their future was guaranteed by the services of the army.

95. Mr. DESPOUY said that he also regretted that he had not had sufficient time to read carefully the report introduced by Mrs. Ksentini. However, in his report on human rights and invalidity, he had taken up a number of points which he had found relevant in the earlier reports of the Working Group on Contemporary Forms of Slavery.

REVIEW OF FURTHER DEVELOPMENTS IN FIELDS WITH WHICH THE SUB-COMMISSION HAS BEEN CONCERNED (agenda item 4)

96. Mr. TURK, introducing the updated version of the report on the right to freedom of opinion and expression (E/CN.4/Sub.2/1991/9) prepared by Mr. Joinet and himself, said that for human rights experts and activists it was clear that human rights and democracy were natural allies, but that violations of

human rights also occurred in democratic societies. Moreover, human rights were sometimes infringed by manipulating the mass media; such a practice was as a rule typical of more developed and hence more democratic societies.

97. Recalling that the preliminary report had drawn on the relevant international instrument, including the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the European Convention on Human Rights, he explained that in their work the Rapporteurs had always taken as their point of departure the principle that the right to freedom of opinion and expression belonged to the fundamental human rights. In other words, in the event of a conflict with a right which did not have the same status, the right to freedom of opinion and expression prevailed. However, it was obvious that the right to freedom of opinion and expression could be subjected to certain restrictions, in accordance with the relevant international standards.

98. The Sub-Commission Special Rapporteurs were of the opinion that "restrictions of restrictions" should be ensured by authorizing them only if they met the criteria of legitimacy as defined in international instruments, by strictly respecting the criterion of legality, by ensuring that restrictions were proportionate to the needs which must be legitimate and expressed by a legislative body, and by ensuring that they were compatible with the standards of democratic society.

99. In their report, the authors responded to a number of critical observations made by some commentators of the preliminary report, who interpreted the right to freedom of opinion and expression as a right which did not permit of any restriction whatsoever. However, the question of restrictions could be evaded only by a very naive reading of international instruments or by taking the view that the promotion of freedoms (including the freedom of opinion and expression) could be immediate, total and absolute, whereas history taught that freedom was always a culmination of a process of democratization during which the limitations on it became less and less restrictive.

100. The most important new development which had occurred in the areas in fields with which the Sub-Commission had been concerned and which was discussed in paragraphs 21 to 23 of the updated version of the report related to the decision of the Commission on Human Rights to establish a working group on arbitrary detention (resolution 1991/42). Arbitrary detention constituted a violation of a number of human rights. Moreover, any detention of a person by reason of his opinions was by nature arbitrary. The work of the Special Rapporteurs on the right to freedom of opinion and expression might be directed in a way which would facilitate the task of the Working Group.

101. In the first part of the report, the authors also discussed a number of issues mentioned in the debates of the Sub-Commission and other bodies, namely, violations of the right to freedom of opinion by non-State actors, contempt of court and the protection of journalists.

102. In the second part of the report, the authors discussed, under the relationship between, on the one hand, freedom of opinion and expression and, on the other, the need to combat racism, issues such as freedom of opinion and

expression in the context of activities to combat racism and the question of legitimacy as expressed in the International Convention on the Elimination of All Forms of Racial Discrimination and in other international instruments. The authors had also tried to summarize the most relevant jurisprudence of international human rights bodies in that regard. They had reached the conclusion that recourse to criminal sanctions in order to combat racism was only one part of a series of possible measures. A comprehensive approach to the problem would have to place the accent mainly on preventive and educational measures and apply sanctions only in extreme cases and with due respect for the principles of legitimacy, legality and proportionality.

103. Mr. BLACKWELL (Observer for the United States of America) said that his Government remained convinced that the Sub-Commission's work on the right to freedom of opinion of expression should aim to promote that fundamental right and not to restrict it. After a careful review of the long report on the question (E/CN.4/Sub.2/1991/9), it was concerned to see that much emphasis had been placed on limitations to that right. For his delegation, freedom of opinion and expression through a free press should be indistinguishable. It therefore took issue with any suggestion that freedom of expression and freedom of the press might be classified as subordinate rights that could be violated by the use of so-called "permissible restrictions". His delegation was also disturbed by proposals made by some organizations concerning a draft charter of journalists' duties and rights. That was not an appropriate field for any international body since such regulation provided licence and even encouragement for violation of those rights.

104. At the same time, he wished to endorse some of the points contained in the report. For instance, like the author, he believed that freedom of opinion and expression was a fundamental right, respect for which affected the exercise of most other rights. Second, his Government was also convinced that there was a powerful connection between freedom of opinion and expression and the practice of detention for political belief. It also questioned the application of criminal penalties, particularly imprisonment, in any matters relating to speech and applauded the view that persons incarcerated for such reasons should receive priority consideration by the Commission's new Working Group on Arbitrary Detention.

105. Far too often, across the globe, regimes feared the questioning and free exchange of opinion that marked a democratic society when, in the view of his delegation, the only acceptable response to hate speeches was to allow the free expression of ideas.

106. In conclusion, he wished to reaffirm his Government's profound commitment to freedom of opinion, expression and political debate. At the same time, when basic rights were becoming increasingly difficult to identify due to the accumulation of qualifications, it might be better to set such matters aside until a consensus became possible. But if work was to continue, he urged members to focus on ways of helping the Working Group on Arbitrary Detention or other similar mechanisms that were seeking to address concretely the problems of persons incarcerated or harassed because of their views or words.

107. Mrs. WARZAZI, introducing the final report on traditional practices affecting the health of women and children (E/CN.4/Sub.2/1991/6), said that a long road had been travelled since 1983, when the Sub-Commission had taken up the question of female circumcision and had submitted recommendations to the Commission on Human Rights. At that time, the subject had been taboo, to the point that the Sub-Commission had had to include its consideration in the context of a broader issue, namely, traditional practices affecting the health of women and children.

108. A study carried out in May 1990 by the WHO Regional Office for the eastern Mediterranean had shown that excision affected 84 million girls and women throughout the world. Nowadays, the subject was no longer taboo and, as a result of a number of conferences and seminars, there was no longer any question of avoiding the issue, which was now described by the expression "female genital mutilation".

109. With regard to the reaction by Governments, although there were few replies to the questionnaire transmitted by the secretariat of the Centre for Human Rights on behalf of the Rapporteurs, field missions showed that the authorities, particularly those of Sudan and Djibouti were fully aware of the need to end harmful practices and female excision.

110. As far as the two seminars proposed by the Sub-Commission, one of which was to take place in Africa and the other in Asia, were concerned, the first had in fact been held, but it had been impossible to hold the second because of the Gulf war.

111. The seminar held in Burkina Faso had been extremely interesting in that it had provided an opportunity for participants from various African countries, most of which were affected by harmful traditional practices, to report on their experiences, to raise problems and to share opinions as to possible solutions. In their recommendations, published in the report of the seminar (E/CN.4/Sub.2/1991/48), the participants had proposed that Governments should speak out clearly against harmful practices, particularly excision, and undertake to bring them to an end; that legislation prohibiting them should be drafted; that a governmental follow-up body should be created; and that the official authorities and the agencies concerned should organize an information campaign to make women aware that they were not to blame for the sex of their child in order to combat female infanticide and induced abortions.

112. In connection with the recommendations addressed to the specialized agencies of the United Nations, the seminar appealed to WHO to organize a ministerial conference on those harmful traditional practices. That appeal had gone unheeded. As for UNICEF, which had a prominent role in the defence and protection of children, it had been strangely absent from the Ouagadougou seminar and had not submitted any working paper to it.

113. In the course of the seminar, the relationship between human rights and traditional practices, particularly female excision, was often mentioned. There was no doubt female excision came within the provisions of article 7 of the International Covenant on Civil and Political Rights, article 12, paragraph 1, of the International Covenant on Economic, Social and Cultural Rights, article 2 (f) of the Convention on the Elimination of All Forms of

Discrimination against Women and articles 6 and 19 and article 24, paragraph 3, of the Covention on the Rights of the Child. An appeal had therefore been made to the United Nations agencies, and more particularly the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities to keep the question of traditional practices affecting the health of women and children on their agenda. It was regrettable that human rights bodies showed so little interest in women's problems, which were relegated to social problems. There was no doubt that if the communications which were received by the Commission on the Status of Women had been considered in accordance with the procedure established under Economic and Social Council resolution 1503 (XLVIII), many Governments would lose no time in abolishing discriminatory laws and elaborating policies in which women would no longer be perceived solely as agents of development and economic profitability.

114. The campaign for the elimination of harmful traditional practices was coming up against other obstacles connected, in certain countries, with the resurgence of certain customs in the name of tradition.

115. As the ministers of planning in a number of central African countries meeting in July 1991 under the auspices of UNDP had stated, the wellbeing, and even the life of millions of women were in danger during childbirth. Puerperal complications caused as many deaths as malaria and more deaths than AIDS in that region of Africa where, furthermore, many parturients were found to be sterile.

116. The seminar scheduled in Asia should make it possible to identify other forms of traditions that deprived women of their property, freedom and life in the name of tradition. By virtue of the right of every human person to live free from fear, insecurity, suffering, oppression and discrimination, a campaign should be undertaken to induce Governments to rehabilitate women and to give a feeling of security to their children. The Sub-Commission was duty bound to take part in combating those practices by following the problem closely and requesting the Centre for Human Rights to provide it with material and technical assistance in the context of its advisory services.

117. Mr. PREJEAN (International Indian Treaty Council), speaking on agenda item 4 on human rights and the environment, said that in view of the importance they attached to their land, the Indian peoples welcomed the decision to entrust Mrs. Ksentini with the task of preparing a study on human rights and the environment. He appreciated Mrs. Ksentini's sensitivity to the issues involving indigenous peoples and their environment and her encouragement to the International Indian Treaty Council and other groups to participate with her in meetings.

118. He wished to focus the attention of the Sub-Commission to the close relationship between human rights, indigenous peoples and the environment.

119. For indigenous peoples the land, the giver of life and sustenance was a source of spirituality. To safeguard it was to protect their freedom of religion; to pillage and destroy it, as colonizers had done and were doing was to profane what was sacred for indigenous people. They demanded recognition of their inherent sovereignty and of their right to maintain their land in their traditional ways, free from expropriation, exploitation, experimentation and excavation.

120. Before the coming of the colonizers, indigenous peoples had lived long and well and had adapted naturally to their environment, but deprivation of their traditional diet had threatened their existence. They must therefore ensure that their traditional hunting and fishing were not threatened by over-zealous conservationist or late arriving Governments which wanted to regulate their jurisdiction and rights. In that connection, he wished to thank the Chairman of the Working Group on Indigenous Populations, Mrs. Daes, for her efforts to elaborate a draft declaration on the rights of indigenous peoples. He paid a tribute to the Special Rapporteur entrusted with the preparation of a study on the treaties, agreements and other constructive arrangements concluded with indigenous populations, Mr. Martinez, who was endeavouring to discharge the mammoth mandate entrusted to him by the United Nations with derisory resources.

121. Finally, the investment made to enable indigenous populations to participate in the work of the Working Group could reap larger rewards by a simple follow-up process, consisting of transmitting the relevant reports to representatives of the indigenous populations, many of whom were subject to financial restrictions.

122. Mrs. PALLEY regretted that she had not requested the Secretary-General to update his report on chemical weapons the previous year. The allegations concerning the use of certain chemical weapons by the Iraqi authorities against the Shiites and of the use of napalm and fuel-air bombs by the United States in Iraq should be independently and objectively investigated. Fuel-air bombs were almost as destructive for the population as neutron bombs, and that was probably the reason the United States had not revealed the extent of Iraqi casualties.

123. She considered that fuel-air bombs and napalm were chemical weapons and that the Secretary-General should submit a report on their use. The Sub-Commission would thus be in a position to refer the information thus communicated to the Disarmament Commission and to ask it to review its definition of chemical weapons, which specifically excluded napalm.

124. She also welcomed the excellent report prepared by Mr. Quirós on discrimination against HIV-infected people or people with AIDS. As she had already stated the previous year, and her proposal had been taken up by Mr. Quirós in his report, any curative or preventive treatment of AIDS should be marketed throughout the world at reasonable prices. In May, the World Heath Organization had sponsored a meeting of pharmaceutical companies in order to raise the issue of the marketing of any medicine or vaccine against

HIV or AIDS throughout the world, including the economically disadvantaged countries. However, that initiative did not go far enough as under article 12 of the International Covenant on Economic, Social and Cultural Rights, States had an obligation to take the steps necessary to ensure that any medicine, preventive as well as curative, should be made available to all.

125. She proposed that the World Intellectual Property Organization should take part in the work of the Sub-Commission and WHO with a view to the establishment of automatic licensing procedures under which medicines would be manufactured in disadvantaged countries without royalties.

126. Mr. ALFONSO MARTINEZ said that the free distribution of medicine against AIDS and opportunistic diseases could be guaranteed by establishing a free market system.

The meeting rose at 0.05 a.m. on 29 August 1991